

III. REMARKS

A. Status of the Claims

Claims 1-25 and 28-45 are pending. Claims 1, 5, 6, 21-25, 28 and 29 have been amended without prejudice. Claim 1 has been amended in accordance with the responsive papers of February 28, 2003 in the parent application, which discussed the Tmax information presented in the '859 patent to Cheng et al. Applicants believe that the claims as now presented further clarify the invention. Claims 24, 26 and 27 have been cancelled without prejudice. It is respectfully submitted that no new matter has been added by virtue of the amendments to the claims.

B. Double Patenting Rejections

Claims 1-42 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5, 7-30, and 43 of copending Application No. 09/705,630.

In response to the obviousness type double patenting rejection, and for the purpose of expediting the prosecution of the present application, applicants submit an executed Terminal Disclaimer over U.S. Patent Application No. 09/705,630, now issued as U.S. Patent No. 6,866,866, to obviate any obviousness-type double-patenting issues with respect to the present application.

Applicant notes that the obviation of an obvious-type double patenting rejection by the filing of a terminal disclaimer is not an admission, acquiescence, or estoppel on the merits of an issue of obviousness. See *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 873-74, 20 U.S.P.Q.2d 1392, 1394-95 (Fed. Cir. 1991).

Accordingly, it is respectfully requested that the obviousness-type double patenting rejection be withdrawn.

IV. CONCLUSION

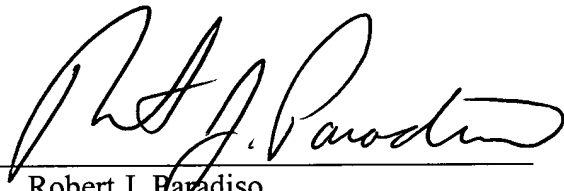
It is now believed that the above-referenced rejections and objections have been obviated and it is respectfully requested that the rejections and objections be withdrawn. It is believed that all claims are now in condition for allowance.

According to currently recommended Patent Office policy the Examiner is requested to contact the undersigned in the event that a telephonic interview will advance the prosecution of this application.

An early and favorable action is earnestly solicited.

Respectfully submitted,

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